

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0368
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 101 DP 862644, 127 Parkes Road COLLAROY PLATEAU NSW 2097
Proposed Development:	Modification of Development Consent DA2020/0013 granted for alterations and additions to a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Robert Giulio Galati Leanne Rose Mesite
Applicant:	Robert Giulio Galati

Application Lodged:	14/08/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	24/08/2020 to 07/09/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The *Environmental Planning and Assessment Act 1979, Section 4.55(2) Other modifications* allows applications to be made seeking consent to modify the original consent where the works are considered to be substantially the same as previously approved.

As such, this application seeks consent to modify original consent DA2020/0013 for alterations and additions to an existing residential dwelling, including:

- Remove the internal door from the kitchen to the study on the ground floor.
- External door to the rear of the garage.
- Extend roof of outdoor tiled area.
- Extension of first floor level to accommodate a secondary lounge room and study area.

- Installation of W-04 and W-05 on the first floor

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B3 Side Boundary Envelope

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 101 DP 862644 , 127 Parkes Road COLLAROY PLATEAU NSW 2097
Detailed Site Description:	<p>The subject site consists of 1 allotment located on the northern side of Parkes Road.</p> <p>The site is an irregularly shaped corner block with a primary frontage of 14.29m along Heather Street and a secondary frontage along Parkes Road of 16.15m. As such, the site has no rear setback. The site has a surveyed area of 281.6m². Vehicular and pedestrian access to the site is gained via Heather Street.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates 2 storey residential dwelling. The subject site is attached to 11A Heather Street, Collaroy Plateau.</p>

The site has a southerly orientation and is located on a gentle slope of approximately 1m, falling in the direction from the street corner to the rear north-eastern corner of the subject site.

The site has minimal vegetation, with one canopy tree located on the street corner. Areas of turf are located forward of the dwelling along Heather Street and Parkes Road.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by dwellings of similar sizes.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

30 September 2002

A Development Application was submitted to Council for the construction of a front and side boundary fence. This application was approved, subject to conditions.

9 January 2020

A Development Application (DA2020/0013) was submitted to Council for alterations and additions to a residential dwelling. This application was approved, subject to conditions.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2020/0013, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2020/0013 for the following reasons:</p> <p>The original application (DA2020/0013) sought consent for alterations and additions to a residential dwelling, including internal alterations and extension to the ground floor, as well as the provision of external paving which was partially roofed. This application also sought consent for a retaining wall and timber fence along the shared boundary between the subject site and 125 Parkes Road, Collaroy Plateau.</p> <p>The proposed modified works include internal alterations to the ground floor and first floor. On the ground floor, the internal alterations are minor and include the removal of the door between the kitchen and study. A new door along the eastern elevation is provided to gain access to the rear of the garage from outside the dwelling. On the first floor, the alterations include extending the floor area to the east to accommodate an additional bedroom and study. The external paving area was approved to be partially roofed. This modification application seeks consent to extend the roof to be located entirely over the external paving area.</p> <p>Council, as the consent authority, can be satisfied that the</p>

Section 4.55 (2) - Other Modifications	Comments
	proposed modified works are substantially the same as that to which was previously approved under DA2020/0013.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2020/0013 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environmental Plan 2011 and Warringah Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building</p>

Section 4.15 'Matters for Consideration'	Comments
	designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 24/08/2020 to 07/09/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>The proposed modification does not alter the original assessment of the application by Development Engineering.</p> <p>No objection to approval with no additional or modified conditions of consent recommended.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A280394_02, dated 2 August 2020).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	4.1m	6.9m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	2.6m	5.3m	Yes
B3 Side Boundary Envelope	4m (eastern elevation)	No encroachment	Encroachment 0.4m	No (10% variation)
	4m (western elevation)	No encroachment	Unchanged	Yes
B5 Side Boundary Setbacks	0.9m (northern boundary)	Nil	1.7m	Yes

	0.9m (eastern boundary)	Nil	0.9m	Yes
B7 Front Boundary Setbacks	6.5m (Heather Street)	6.7m	Unchanged	Yes
	3.5m (Parkes Road)	2.4m	Unchanged	No, as approved
D1 Landscaped Open Space and Bushland Setting	40% (112.6m ²)	40.2% (113.4m ²)	Unchanged	Yes

Compliance Assessment

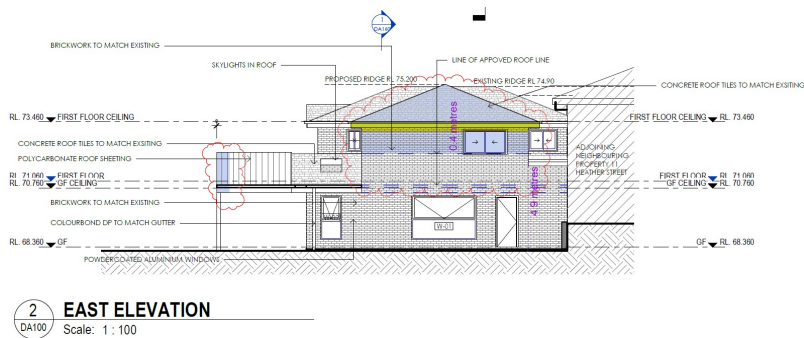
Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D8 Privacy	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B3 Side Boundary Envelope

Description of non-compliance

This control requires development to be situated within the building envelope, measured at a height of 4m from the side boundary and inwards at a 45 degree angle. The proposed first floor extension to the east will result in a minor encroachment to the eastern side boundary envelope (see image below). Representing a 10% variation to this control.



Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposed development, while encroaching into the eastern side boundary envelope, will not become visually dominant by virtue of its height and bulk as the proposal remains well below the maximum building height. Additionally, the first floor eastern side setback achieves compliance with side setback requirement of 0.9m.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The proposed first floor extension achieves compliance with the side setback requirement (that is, 0.9m), as such there is sufficient spatial separation between buildings, thus allowing a reasonable degree of privacy, solar access and adequate light to the subject site and adjoining properties.

- *To ensure that development responds to the topography of the site.*

Comment:

The proposal does not result in the significant altering of the topography of the site and, as such, is considered appropriate for the site with no unreasonable amenity impacts upon adjoining properties or the existing streetscape. It is considered that the proposed development responds well to the topography of the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The proposed first floor extension includes the installation of one (1) window along the eastern elevation. While this extensions is numerically compliant with the side setback control, the proposed window will potentially create unreasonable overlooking into the windows of the neighbouring property (being 125 Parkes Road). In this instance, a condition of consent will be included within this report that requires the modification of proposed W-05 to have a sill height of 1.6m.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The overall proposal, as conditioned, is considered to be an innovative design that positively contributes to the urban environment.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposed development will ensure an appropriate level of personal and property security is maintained for the occupants of the subject site and its visitors.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent / consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation

submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2020/0368 for Modification of Development Consent DA2020/0013 granted for alterations and additions to a dwelling house on land at Lot 101 DP 862644, 127 Parkes Road, COLLAROY PLATEAU, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA020 (Rev 2) Site Plan	2 August 2020	Leffler Simes Architects
DA50 (Rev P2) Ground Floor Demolition Plan	2 August 2020	Leffler Simes Architects

DA100 (Rev 3) Ground Floor Plan	15 September 2020	Leffler Simes Architects
DA101 (Rev 3) First Floor Plan	15 September 2020	Leffler Simes Architects
DA150 (Rev 4) South and East Elevations	17 September 2020	Leffler Simes Architects
DA151 (Rev 4) West Elevation	17 September 2020	Leffler Simes Architects
DA160 (Rev 3) Section 1 and Section 2	15 September 2020	Leffler Simes Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
DA300 (Rev 2) Sediment Control Detail	2 August 2020	Leffler Simes Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (A280394_03)	15 September 2020	Robert Galati
Updated Plans Letter	30 July 2020	Ascent Geotechnical Consulting Pty Ltd

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

d) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

f) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No.	Dated	Prepared By
DA300 (Rev 2) Waste Management Plan	January 2020	Leffler Simes Architects
Waste Management Plan	Not Dated	Not Signed

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

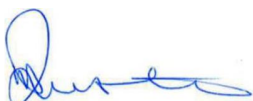
B. Add Condition 10A Amendments to Window Schedule to read as follows:

W-05 (sliding window) is to be reduced in size to a height of 500mm, with a sill height of 1.6m from the finished floor level of the first floor.

Reason: To ensure privacy is obtained for the occupants of the subject site and the adjoining property.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Megan Surtees, Planner

The application is determined on 18/09/2020, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager